

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN RAMON VALLEY UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2013070599

ORDER GRANTING PEREMPTORY
CHALLENGE

On September 27, 2013, counsel for the San Ramon Valley Unified School District (District) filed a peremptory challenge seeking to disqualify Administrative Law Judge (ALJ) Rebecca Freie from hearing this case. The District's peremptory challenge is made pursuant to Government Code section 11425.40, subdivision (d), of the Administrative Procedures Act (APA), and California Code of Regulations, title 1, section 1034.

Government Code section 11425.40, subdivision (d), establishes the criteria for disqualification of the presiding officer. A party is entitled to one peremptory challenge (disqualification without cause) to an ALJ assigned to an Office of Administrative Hearings (OAH) hearing. (Cal. Code Regs., tit. 1, § 1034, subds. (a) & (b); Gov. Code, § 11425.40, subd. (d).) In no event will a peremptory challenge be allowed if it is made after the hearing has commenced. In addition, if at the time of a scheduled prehearing conference, an ALJ has been assigned to the Hearing, any challenge to the assigned ALJ shall be made no later than commencement of that prehearing conference. (Cal. Code Regs., tit. 1, § 1034, subd. (c).) A peremptory challenge is not allowed on reconsideration or remand, and cannot be made after a hearing has begun. (Cal. Code Regs., tit. 1, § 1034, subd. (a).)

Here, the District's peremptory challenge is timely made and is granted pursuant to Government section 11425.40, subdivisions (a) and (d), and California Code of Regulations, title 1, section 1034, subdivision (c).

ORDER

1. The District's challenge of ALJ Rebecca Freie is granted.
2. The prehearing conference in this matter is hereby continued to Monday, September 30, 2013, at 3:00 p.m. Otherwise, the hearing dates previously set in this matter will remain on calendar.
3. ALJ Charles Marson is now the assigned hearing judge in the case.

Dated: September 27, 2013

/s/

TIMOTHY L. NEWLOVE
Presiding Administrative Law Judge
Office of Administrative Hearings